IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE THIRD DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MR JUSTICE V.ESWARAIAH

WRIT PETITION NO : 4404 of 2004

Between:

V. Malla Reddy S/o V. Raghava Reddy
R/o H. NO. 210-277 Jyothinagar, Karimnagar

..... PETITIONER

AND

1 Karimnagar District Cooperative Central Bank Ltd., Karimnagar rep by General Manager
2 Government of Andhra Pradesh rep by registrar of Cooperative Societies & Commissioner for Cooperation, Gruhakalpa, Nampalli, Hyderabad

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an order direction or Writ particularly one in the nature of Writ of Mandamus or any other appropriate Writ declaring the action of the respondents in not releasing the termination benefits such as gratuity, Encashment of Leave, GILIS, Cash security to the petitioner on attaining the age of Superannuation of 58 years on 31-5-2003 as illegal, arbitrary; and consequently direct the respondent to release the terminal benefits, i.e. gratuity leave encashment, GILIS, Cash Security etc. together with interest.

Counsel for the Petitioner:MR.G.VIDYASAGAR

Counsel for the Respondent No.2: GP FOR COOPERATION

Counsel for the respondent No.1: Mr.P.M.Gopala Rao

The Court made the following :

O R D E R:

The petitioner joined in the District Cooperative Central Bank on 01.01.1968 as Accountant-in-Charge Manager and there after, he was promoted as Manager. While the petitioner was in service, he was placed under suspension by proceedings No.B5/242/2003-2004, dated 08.05.2003 on the ground that he failed to take steps for clearing the suspense assets outstanding account to a tune of Rs.4.46 lakhs since 1996 and thereby caused loss to the Bank. By proceedings No.B5/327/03-04, dated 20.05.2003 two charges were framed against the petitioner for the unsettled balance of Rs.4.46 lakhs towards cheques issued by the Tobacco Board of Guntur District and also failed to collect commission on cheques discount facility and thereby caused loss to the Bank. On 29.05.2003 the petitioner submitted a representation seeking 30 days time to submit his explanation. On attaining the age of superannuation, the petitioner has retired from service on 30.05.2003. It is also the case of the petitioner that a settlement was entered into between the Management of the District Cooperative Central Bank and the Employees Union. As per the settlement, eventhough the employee retires from service on attaining the age of superannuation, the Bank has got power to continue the services of an employee who is physically fit and efficient by extending the services upto 60 years, but no proceedings were issued to the petitioner to continue his services beyond 58 years. As per the settlement, the employee is entitled to gratuity at the rate of one month's pay for each year of service for a maximum of 20 months. As the petitioner

put in 25 years of service, he is entitled to a maximum salary of 20 months salary, leave encashment, Group Saving Life Insurance Scheme, Cash Security amount of Rs.2,000/-. Since the respondents did not release the terminal benefits to the petitioner, this writ petition is filed.

The learned counsel for the respondents submits that the petitioner obtained several crop loans and term loans from the Bank and fell in due to a tune of Rs.2,94,000/- as on 31.07.2004. If the said retirement benefits of Rs.3,00,000/- are paid to the petitioner, it will be difficult for the Bank to recover Rs.4.46 lakhs covered under the charge memo, dated 20.05.2003. It is further stated that the petitioner has drawn excess salary while he was working as Assistant Manager. It is further submitted that the excess salary drawn by the petitioner over and above his eligibility amount to a tune of Rs.75,616/- is the subject matter in W.P.No.24282 of 2002, which is pending before this Court.

Then learned counsel for the respondents did not place any Regulation or Rule authorizing the Bank to continue the disciplinary proceedings against petitioner, even after his retirement. Therefore, I am of the view that as the petitioner has retired from service, disciplinary proceedings cannot be initiated against him. As per the decision of this Court reported in R.VENKAT VS. STATE OF A.P., gratuity cannot be withheld pending surcharge proceedings and the amount towards encashment of leave can be withheld.

For the aforesaid reasons, I am of the view that the respondents are not entitled to withheld the gratuity amount and insofar as the other amounts are concerned, they can take appropriate action against the petitioner for the recovery of the amounts from him and settle the matter in accordance with law.

The writ petition is accordingly disposed of directing the respondents to pay the gratuity amount to the petitioner without reference to the pendency of the surcharge proceedings in respect of the loans obtained by the petitioner and in

respect of the excess salary said to have been drawn, WHICH will be subject to the result of the writ petition No.24282 of 2002 and subject to further action that may be taken for the settlement of accounts for the payment of other retirement benefits. No costs.

03.09.2004

tjs

ASSISTANT REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 Karimnagar District Cooperative Central Bank Ltd., Karimnagar rep by General Manager
2 Government of Andhra Pradesh rep by registrar of Cooperative Societies & Commissioner for Cooperation, Gruhakalpa, Nampalli, Hyderabad

3.2CCs to the G.P. for Cooperation, High Court of A.P., Hyderabad (OUT)

2.2CD copies